

ATTACHMENT II
Text of Proposed Amendment to 19 TAC

Chapter 109. Budgeting, Accounting, and Auditing

Subchapter AA. Commissioner's Rules Concerning Financial Accountability

§109.1001. Financial Accountability Ratings.

- (a) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.
 - (1) Annual Financial Report (AFR)--The audited annual report required by the Texas Education Code (TEC), §44.008, that is due to the Texas Education Agency (TEA) by no later than 150 days after the close of a school district's or an open-enrollment charter school's fiscal year.
 - (2) Debt--An amount of money owed to a person, bank, company, or other organization.
 - (3) Electronic submission--The TEA electronic data feed format required for use by school districts, open-enrollment charter schools, and regional education service centers (ESCs).
 - (4) Financial Integrity Rating System of Texas (FIRST)--The financial accountability rating system administered by the TEA in accordance with the TEC, §39.082 and §39.085. The system provides additional transparency to public education finance and meaningful financial oversight and improvement for school districts (School FIRST) and open-enrollment charter schools (Charter FIRST).
 - (5) Fiscal year--The fiscal year of a school district or an open-enrollment charter school, which begins on July 1 or September 1 of each year, as determined by the board of trustees of the district or the governing body of the charter holder in accordance with the TEC, §44.0011.
 - (6) Foundation School Program (FSP)--The program established under the TEC, Chapters 41, 42, and 46, or any successor program of state-appropriated funding for school districts in this state.
 - (7) Public Education Information Management System (PEIMS)--The system that school districts and open-enrollment charter schools use to load, validate, and submit their data to the TEA.
 - (8) Summary of Finances (SOF) report--The document of record for FSP allocations. An SOF report is produced for each school district and open-enrollment charter school by the TEA division responsible for state funding that describes the school district's or open-enrollment charter school's funding elements and FSP state aid.
 - (9) Warrant hold--The process by which state payments issued to payees indebted to the state, or payees with a tax delinquency, are held by the Texas Comptroller of Public Accounts until the debt is satisfied in accordance with the Texas Government Code, §403.055.
- (b) The TEA will assign a financial accountability rating to each school district and open-enrollment charter school as required by the TEC, §39.082.
- (c) The commissioner of education will evaluate the rating system every three years as required by the TEC, §39.082, and may modify the system in order to improve the effectiveness of the rating system. If the rating system has been modified, the TEA will communicate changes to ratings criteria and their effective dates to school districts and open-enrollment charter schools.
- (d) The TEA will use the following sources of data in calculating the financial accountability indicators for school districts and open-enrollment charter schools:
 - (1) AFR. For each school district and open-enrollment charter school, the TEA will use audited financial data in the district's or charter's AFR. The AFR, submitted as an electronic submission through the TEA website, must include data required in the Financial Accountability System Resource Guide (FASRG) adopted under §109.41 of this title (relating to Financial Accountability System Resource Guide);

- (2) PEIMS. The TEA will use PEIMS data submitted by the school district or open-enrollment charter school in the calculation of the financial accountability indicators.
 - (3) Warrant holds. The TEA will use warrant holds as reported by the Texas Comptroller of Public Accounts in the calculation of the financial accountability indicators.
 - (4) FSP. The TEA will use the average daily attendance (ADA) information used for FSP funding purposes for the school district or open-enrollment charter school in the calculation of the financial accountability indicators.
- (e) The TEA will base the financial accountability rating of a school district on its overall performance on the financial measurements, ratios, and other indicators established by the commissioner, as shown in the figures provided in this subsection. Financial accountability ratings for a rating year are based on the data from the immediate prior fiscal year.
- (1) The financial accountability rating indicators for rating year 2014-2015 are based on fiscal year 2014 financial data and are provided in the figure in this paragraph entitled "School FIRST - Rating Worksheet Dated August 2015 for rating year 2014-2015."
Figure: 19 TAC §109.1001(e)(1) (No change.)
 - (2) The financial accountability rating indicators for rating year 2015-2016 are based on fiscal year 2015 financial data and are provided in the figure in this paragraph entitled "School FIRST - Rating Worksheet Dated August 2015 for rating year 2015-2016."
[Figure: 19 TAC §109.1001\(e\)\(2\)](#) ~~Figure: 19 TAC §109.1001(e)(2)~~
 - (3) The financial accountability rating indicators for rating year 2016-2017 are based on fiscal year 2016 financial data and are provided in the figure in this paragraph entitled "School FIRST - Rating Worksheet Dated August 2015 for rating year 2016-2017." The financial accountability rating indicators for rating years after 2016-2017 will use the same calculation and scoring method provided in the figure in this paragraph.
[Figure: 19 TAC §109.1001\(e\)\(3\)](#) ~~Figure: 19 TAC §109.1001(e)(3)~~
 - (4) The specific calculations and scoring methods used in the financial accountability rating worksheets for school districts for rating years prior to 2014-2015 remain in effect for all purposes with respect to those rating years.
- (f) The TEA will base the financial accountability rating of an open-enrollment charter school on its overall performance on the financial measurements, ratios, and other indicators established by the commissioner, as shown in the figures provided in this subsection. Financial accountability ratings for a rating year are based on the data from the immediate prior fiscal year.
- (1) The financial accountability rating indicators for rating year 2014-2015 are based on fiscal year 2014 financial data and are provided in the figure in this paragraph entitled "Charter FIRST - Rating Worksheet Dated August 2015 for rating year 2014-2015."
Figure: 19 TAC §109.1001(f)(1) (No change.)
 - (2) The financial accountability rating indicators for rating year 2015-2016 are based on fiscal year 2015 financial data and are provided in the figure in this paragraph entitled "Charter FIRST - Rating Worksheet Dated August 2015 for rating year 2015-2016."
Figure: 19 TAC §109.1001(f)(2) (No change.)
 - (3) The financial accountability rating indicators for rating year 2016-2017 are based on fiscal year 2016 financial data and are provided in the figure in this paragraph entitled "Charter FIRST - Rating Worksheet Dated August 2015 for rating year 2016-2017." The financial accountability rating indicators for rating years after 2016-2017 will use the same calculation and scoring method provided in the figure in this paragraph.
Figure: 19 TAC §109.1001(f)(3) (No change.)

- (4) The specific calculations and scoring methods used in the financial accountability rating worksheets for open-enrollment charter schools for rating years prior to 2014-2015 remain in effect for all purposes with respect to those rating years.
- (g) The types of financial accountability ratings that school districts or open-enrollment charter schools may receive for the rating year 2014-2015 are as follows.
- (1) P for pass. This rating applies only to the financial accountability rating for rating year 2014-2015 based on fiscal year 2014 financial data. In accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive a P rating if it scores within the applicable range established by the commissioner for a P rating.
 - (2) F for substandard achievement. This rating applies to the financial accountability rating for rating year 2014-2015 based on fiscal year 2014 financial data. In accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive an F rating if it scores within the applicable range established by the commissioner for an F rating.
- (h) The types of financial accountability ratings that school districts or open-enrollment charter schools may receive for the rating year 2015-2016 and all subsequent rating years are as follows.
- (1) A for superior achievement. Beginning with the financial accountability rating for rating year 2015-2016 and all subsequent rating years, in accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive an A rating if it scores within the applicable range established by the commissioner for an A rating.
 - (2) B for above standard achievement. Beginning with the financial accountability rating for rating year 2015-2016 and all subsequent rating years, in accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive a B rating if it scores within the applicable range established by the commissioner for a B rating.
 - (3) C for standard achievement. Beginning with the financial accountability rating for rating year 2015-2016 and all subsequent rating years, in accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive a C rating if it scores within the applicable range established by the commissioner for a C rating.
 - (4) F for substandard achievement. Beginning with the financial accountability rating for rating year 2015-2016 and all subsequent rating years, in accordance with the procedures established in this section, a school district or an open-enrollment charter school will receive an F rating if it scores within the applicable range established by the commissioner for an F rating.
 - (5) No Rating. Beginning with the financial accountability rating for rating year 2016-2017 and all subsequent rating years, in accordance with the procedures established in this section, a school district receiving territory due to an annexation order by the commissioner under the TEC, §13.054, or consolidation under the TEC, Chapter 41, Subchapter H, will not receive a rating for two consecutive rating years beginning with the rating year that is based on financial data from the fiscal year in which the order of annexation becomes effective. After the second rating year, the receiving district will be subject to the financial accountability rating system established by the commissioner in this section.
- (i) The commissioner may lower a financial accountability rating based on the findings of an action conducted under the TEC, Chapter 39.
- (j) A financial accountability rating remains in effect until replaced by a subsequent financial accountability rating.
- (k) The TEA will issue a preliminary financial accountability rating to a school district or an open-enrollment charter school on or before August 8 of each year. The TEA will base the financial accountability rating for a rating year on the data from the fiscal year preceding the rating year.
- (1) The TEA will not delay the issuance of the preliminary or final rating if a school district or an open-enrollment charter school fails to meet the statutory deadline under the TEC, §44.008, for

submitting the AFR. Instead, the school district or open-enrollment charter school will receive an F rating for substandard achievement.

- (2) If the TEA receives an appeal of a preliminary rating, described by subsection (1) of this section, the TEA will issue a final rating to the school district or open-enrollment charter school no later than 60 days after receiving the appeal.
 - (3) If the TEA does not receive an appeal of a preliminary rating, described by subsection (1) of this section, the preliminary rating automatically becomes a final rating 31 days after issuance of the preliminary rating.
- (l) A school district or an open-enrollment charter school may appeal its preliminary financial accountability rating through the following appeals process.
- (1) The TEA division responsible for financial accountability must receive a written appeal no later than 30 days after the TEA's release of the preliminary rating. The appeal must include adequate evidence and additional information that supports the school district's or open-enrollment charter school's position. Appeals received 31 days or more after TEA issues a preliminary rating will not be considered.
 - (2) A data error attributable to the TEA is a basis for an appeal. If a preliminary rating contains a data error attributable to the TEA, a school district or an open-enrollment charter school may submit a written appeal requesting a review of the preliminary rating.
 - (3) A school district or an open-enrollment charter school may appeal any adverse issue it identifies in the preliminary rating. However, the financial accountability rating system is required to apply the rules uniformly. Therefore, an error by a school district or an open-enrollment charter school in recording data or submitting data through the TEA data collection and reporting system is not a valid basis for appealing a preliminary rating and unlikely to negate concerns raised by the indicator. The appeals process is not a permissible method to correct data that were inaccurately reported by the school district or open-enrollment charter school after those data were certified as accurate. A request for exception to the rules for a school district or an open-enrollment charter school is disfavored and likely to be denied.
 - (4) The TEA will only consider appeals that would result in a change of the preliminary rating.
 - (5) The TEA division responsible for financial accountability will select an external review panel to independently oversee the appeals process.
 - (6) The TEA division responsible for financial accountability will submit the information provided by the school district or open-enrollment charter school to the external review panel members for review.
 - (7) Each external review panel member will examine the appeal and supporting documentation and will submit his or her recommendation to the TEA division responsible for financial accountability.
 - (8) The TEA division responsible for financial accountability will compile the recommendations and forward them to the commissioner.
 - (9) The commissioner will make a final ratings decision.
- (m) A final rating issued by the TEA under this section may not be appealed under the TEC, §7.057, or any other law or rule.
- (n) A financial accountability rating by a voluntary association is a local option of the school district or open-enrollment charter school, but it does not substitute for a financial accountability rating by the TEA.
- (o) Each school district and open-enrollment charter school is required to report information and financial accountability ratings to parents, taxpayers, and other stakeholders by implementing the following reporting procedures.
- (1) Each school district and open-enrollment charter school must prepare and distribute an annual financial management report in accordance with this subsection.

- (2) Each school district and open-enrollment charter school must provide the public with an opportunity to comment on the report at a public hearing.
- (3) The school district's or open-enrollment charter school's annual financial management report must include:
 - (A) a description of its financial management performance based on a comparison, provided by the TEA, of its performance on the indicators established by the commissioner and reflected in this section. The report will contain information that discloses:
 - (i) state-established standards; and
 - (ii) the school district's or open-enrollment charter school's financial management performance under each indicator for the current and previous year's financial accountability ratings;
 - (B) any descriptive information required by the commissioner, including:
 - (i) a copy of the superintendent's current employment contract or other written documentation of employment if no contract exists. This must disclose all compensation and benefits paid to the superintendent. The school district or open-enrollment charter school may publish the superintendent's employment contract on its website instead of publishing it in the annual financial management report;
 - (ii) a summary schedule for the fiscal year (12-month period) of expenditures paid on behalf of the superintendent and each board member and total reimbursements received by the superintendent and each board member. This includes transactions on the school district's or open-enrollment charter school's credit card(s), debit card(s), stored-value card(s), and any other similar instrument(s) to cover expenses incurred by the superintendent and each board member. The summary schedule must separately report reimbursements for meals, lodging, transportation, motor fuel, and other items. The summary schedule of total reimbursements should not include reimbursements for supplies and materials that were purchased for the operation of the school district or open-enrollment charter school;
 - (iii) a summary schedule for the fiscal year of the dollar amount of compensation and fees received by the superintendent from an outside school district or open-enrollment charter school or any other outside entity in exchange for professional consulting or other personal services. The schedule must separately report the amount received from each entity;
 - (iv) a summary schedule for the fiscal year of the total dollar amount of gifts that had a total economic value of \$250 or more received by the executive officers and board members. This reporting requirement applies only to gifts received by the school district's or open-enrollment charter school's (or charter holder's) executive officers and board members (and their immediate family as described by Government Code, Chapter 573, Subchapter B, Relationships by Consanguinity or by Affinity) from an outside entity that received payments from the school district or open-enrollment charter school (or charter holder) in the prior fiscal year and to gifts from competing vendors that were not awarded contracts in the prior fiscal year. This reporting requirement does not apply to reimbursement by an outside entity for travel-related expenses when the purpose of the travel was to investigate matters directly related to an executive officer's or board member's duties or to investigate matters related to attendance at education-related conferences and seminars with the primary purpose of providing continuing education (this exclusion does not apply to trips for entertainment purposes or pleasure trips). This reporting requirement excludes

- an individual gift or a series of gifts from a single outside entity that had a total economic value of less than \$250 per executive officer or board member; and
 - (v) a summary schedule for the fiscal year of the dollar amount received by board members for the total amount of business transactions with the school district or open-enrollment charter school (or charter holder). This reporting requirement is not to duplicate the items disclosed in the summary schedule of reimbursements received by board members; and
 - (C) any other information the board of trustees of the school district or open-enrollment charter school determines to be useful.
- (4) The board of trustees of each school district or open-enrollment charter school must hold a public hearing on the annual financial management report within two months after receiving a final financial accountability rating. The public hearing must be held at a location in the district's or open-enrollment charter school's facilities. The board must give notice of the hearing to owners of real estate property in the geographic boundaries of the school district or open-enrollment charter school and to parents of school district or open-enrollment charter school students. In addition to other notice required by law, the board must provide notice of the hearing:
 - (A) to a newspaper of general circulation in the geographic boundaries of the school district or each campus of an open-enrollment charter school once a week for two weeks prior to holding the public meeting, providing the time and place of the hearing. The first notice in the newspaper may not be more than 30 days prior to the public meeting or less than 14 days prior to the public meeting. If no newspaper is published in the county in which the district's central administration office is located or within the geographic boundaries of an open-enrollment charter school's campus, then the board must publish the notice in the county nearest to the county seat of the county in which the district's central administration office is located or in which the campus of the open-enrollment charter school is located; and
 - (B) through electronic mail to the mass communication media serving the school district or open-enrollment charter school, including, but not limited to, radio and television.
- (5) At the hearing, the school district or open-enrollment charter school must provide the annual financial management report to the attending parents and taxpayers.
- (6) The school district or open-enrollment charter school must retain the annual financial management report for at least three years after the public hearing and make it available to parents and taxpayers upon request.
- (7) Each school district or open-enrollment charter school that received an F rating must file a corrective action plan with the TEA, prepared in accordance with instructions from the commissioner, within one month after the school district's or open-enrollment charter school's public hearing. The commissioner may require certain information in the corrective action plan to address the factor(s) that may have contributed to a school district's or an open-enrollment charter school's F rating.